

Applicants: Stadler et al.  
Serial No. 10/023,234  
Page 11

## REMARKS

Claims 1-55 were rejected under 35 USC § 102(b) as being clearly anticipated by Larnard et al. , U.S. Patent No. 5,086,772. Applicant respectfully traverses this rejection.

As the Examiner is well aware, for a rejection to be proper under section 102, each element of the claim must be taught within the reference. Despite the Examiner's conclusory statements to the contrary, Larnard does not teach operation of a processor in a normal and in a guarded mode. As such, the rejection is improper and must be withdrawn.

Initially, Applicant respectfully requests that the substantive arguments provided with the previous response, which are herein incorporated by reference be addressed on the record.

In the present office action, the Examiner states that "Larnard et al. discloses [sic] a processor 19 having a normal processing mode (see 101 for normal sinus rhythm data) for benign heart rhythm . . . and a guarded processing mode responsive to a non-benign heart rhythm comprising classifying cardiac events as bradycardia or tachycardia."

The Examiner further states that "[e]vent/Peak detection 103, interval and morphology calculations 104 provide means for switching from the normal processing mode to a guarded processing mode."

What Larnard et al. clearly and unambiguously teaches is an algorithm. Nothing more, nothing less. "Referring now to FIG. 2, a generalized flow diagram of an arrhythmia recognition algorithm for an implantable . . . device has there been illustrated." Performing steps in a defined algorithm does not switch a processor from one mode of operation to another. Absent the Examiner's conclusory statement, Applicant respectfully requests specific support within the reference itself that address the mode of operation of the processor.

The Examiner is simply ignoring the language of the claims and the disclosure provided by the specification in the instant case. The stated [e]vent/Peak detection 103, interval and morphology calculations 104 provide means for

Applicants: Stadler et al.  
Serial No. 10/023,234  
Page 12

switching from the normal processing mode to a guarded processing mode" does not exist in the reference. Again, the reference simply teaches an algorithm used to identify rhythms that are performed while the processor remains in a single operating state.

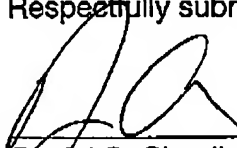
Applicant respectfully asserts that the rejection is unsupportable and must be withdrawn. Should the Examiner disagree, Applicant respectfully requests specific support within the reference that addresses the concept of changing an operational state of a processor from a normal to a guarded mode as those terms are used and defined within the present application. Further, Applicant requests a clear explanation and analysis with respect to the Examiner's interpretation of the claim language, its context within the specification, the reference and its lack of subject matter, and full and complete response to Applicant's present and past arguments.

Applicants: Stadler et al.  
Serial No. 10/023,234  
Page 13

The claims are in condition for allowance and notice of the same is respectfully requested. Should any issues remain outstanding, the Examiner is respectfully urged to telephone the undersigned to expedite prosecution.

Respectfully submitted,

Date: 4/5/05

  
Daniel G. Chapik

Reg. 43,424

Telephone: (763) 514-3066

Customer No. 27581